

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THOMAS E. PEREZ, Secretary of Labor,)
UNITED STATES DEPARTMENT OF)
LABOR,) Case No.: 3:15-cv-4963
Plaintiff,)
v.) ~~PROPOSED~~ **TEMPORARY**
i2A TECHNOLOGIES, INC., a California) **RESTRAINING ORDER AND ORDER**
corporation; VICTOR BATINOVICH, an) **TO SHOW CAUSE**
individual)
Defendants.)

This matter came before the Court on the ex parte motion of the United States Secretary of Labor for a temporary restraining order under Federal Rule of Civil Procedure 65 and Section 17 of the Fair Labor Standards Act of 1938 (“FLSA”), 29 U.S.C. § 217, and an order for Defendants i2A Technologies, Inc. and Victor Batinovich to show cause why a preliminary injunction should not issue enjoining them from:

1. Shipping or selling in interstate commerce goods that were produced by employees who were not paid at least minimum wage in violation of the “hot goods” provision of the FLSA, 29 U.S.C. § 215(a)(1);
2. Failing to pay their employees their wages when due in violation of Sections 6 and 15(a)(2) of the FLSA, 29 U.S.C. § 206 and 215(a)(2);
3. Discouraging employees from pursuing their rights under the FLSA or coercing them to work without pay, in violation of Section 15(a)(3) of the FLSA, 29 U.S.C. § 215(a)(3).

On October 28, 2015, Plaintiff filed a Complaint against Defendants alleging that they violated Sections 15(a)(1), 15(a)(2), and 15(a)(3) of the FLSA, 29 U.S.C. §§ 215(a)(1), 215(a)(2)

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1 and 215(a)(3). The Complaint seeks injunctive relief under Section 17 of the FLSA, 29 U.S.C. §
2 217, and unpaid wages and liquidated damages under Section 16(c) of the FLSA, 29 U.S.C. §
3 216(c).

4 The Secretary presented evidence in support of his motion, demonstrating that
5 Defendants did already or intend to ship, transport, sell, or offer to sell goods in interstate
6 commerce goods that were made by employees who were not paid at least the federal minimum
7 wage of \$7.25 per hour. Specifically, the Secretary presented evidence that Defendants did
8 already or intend to ship, transport, sell, or offer to sell goods that were made by employees
9 whom Defendants failed to pay any wages for the two-week pay periods ending on October 4,
10 2015 and October 18, 2015. The Secretary also presented evidence that Defendants discouraged
11 workers from seeking relief under the FLSA and coerced employees to work without pay in
12 violation of Section 15(a)(3) of the FLSA.

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14 Defendants have violated and are likely to continue to violate Sections 15(a)(1), 15(a)(2),
15 and 15(a)(3) of the FLSA, 29 U.S.C. 215(a)(1), 215(a)(2), and 215(a)(3). Further, if Defendants'
16 conduct is not immediately rectified, Defendants' employees, Defendants' law-abiding
17 competitors, and the Secretary—who was authorized by Congress to enforce the FLSA in the
18 public interest—will be irreparably harmed.

19 The Secretary has presented evidence in support of the temporary restraining order and
20 has shown that good cause exists for issuing a TRO. Thus, the Court **GRANTS** the motion for a
21 temporary restraining order and order to show cause, and sets a hearing on the motion for a
22 preliminary injunction as set forth below.
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TEMPORARY RESTRAINING ORDER

PENDING THE HEARING on the Secretary's preliminary injunction, the Court hereby **ENJOINS** Defendants i2A Technologies, Inc. and Victor Batinovich, including their agents, family members, attorneys, employees, and all those in active concert or participation with Defendants as follows:

1. Defendants are enjoined and restrained from violating the provisions of Section 15(a)(1) of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 215(a)(1), in any of the following manners: Defendants shall not transport, ship, deliver, or sell in commerce, or offer to do so, any goods produced by i2A Technologies, Inc. or Victor Batinovich as to which the U.S. Department of Labor notifies or has notified Defendants in writing that it has a good faith basis to believe were produced by employees who were not paid at least minimum wage in violation of Section 6 of the FLSA, 29 U.S.C. § 206;

2. Defendants shall make good on the payrolls due to their employees including paying their employees at least the federal minimum wage of \$7.25 per hour as required by Section 6 of FLSA, 29 U.S.C. § 206; and

3. Defendants are enjoined and restrained from violating the provisions of Section 15(a)(3) of FLSA, 29 U.S.C. § 215(a)(3) and shall not discourage employees in any way not to pursue their rights under the FLSA or coerce them in any way to work without pay.

ORDER TO SHOW CAUSE

TO DEFENDANTS i2A TECHNOLOGIES, INC. and VICTOR BATINOVICH:

YOU ARE HEREBY ORDERED TO SHOW CAUSE on November 17, 2015, at 9 a.m. / p.m. in the courtroom in the United States District Court for the Northern District of California, San Francisco Division, Courtroom 8, located at 450 Golden Gate Avenue, San

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1 Francisco California, if there be any, why a preliminary injunction shall not issue to enjoin the
2 conduct set forth above under the Temporary Restraining Order.

3 Defendants shall file any written response to the Motion for Temporary Restraining
4 Order and Order to Show Cause no later than ~~5:00 p.m.~~ ^{Noon} on November 10, 2015. The
5 Secretary shall file any reply no later than ~~5:00 p.m.~~ ^{Noon} on Nov. 13, 2015.

6 The Secretary shall serve copies of the Temporary Restraining Order, Order to Show
7 Cause, and supporting documents on Defendants within one calendar days of entry of this
8 Order. An investigator from the Wage and Hour Division may serve Defendants on behalf of the
9 Secretary.

10 **IT IS SO ORDERED.**

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12 Dated this 3rd day of November, 2015.

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16 UNITED STATES DISTRICT COURT JUDGE

17 Dated: October 28, 2015

18 M. PATRICIA SMITH
19 Solicitor of Labor

20 JANET M. HEROLD
21 Regional Solicitor

22 SUSAN SELETSKY
23 Counsel for FLSA

24 By: /s/ Rose Darling
25 ROSE DARLING (Cal. Bar # 243893)
Senior Trial Attorney

Attorneys for the Secretary
United States Department of Labor

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